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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA - MODESTO DIVISION

In re

CHRISTOPHER ALAN LININGER AND  
TINA MARIE LININGER,

Debtor(s).

Case No. 10-93794

Chapter 7

D.C. No. PD-1

DECLARATION IN SUPPORT OF  
MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
(11 U.S.C. § 362 and Bankruptcy Rule 4001)

WELLS FARGO BANK, NA,

Movant,

vs.

CHRISTOPHER ALAN LININGER AND  
TINA MARIE LININGER, Debtor(s); IRMA  
C. EDMONDS, Chapter 7 Trustee,

Respondents.

LBR 4001-1 and 9014-1(f)(1)

DATE: February 9, 2011  
TIME: 10:00 a.m.  
DEPT: E

1200 I Street, Suite 4  
Modesto, CA 95354

I, Teresa Diaz-Cochran, declare:

1. I am employed as a VP Loan Documentation by Wells Fargo Home Mortgage, a division of Wells Fargo Bank, NA ("Movant"). I have personal knowledge of the matters set forth in this declaration and, if called upon to testify, I could and would competently testify thereto. I am over 18 years of age. I have knowledge regarding Movant's interest in the real property that is the subject of this Motion.

2. I am familiar with the manner and procedures by which Movant's business records are obtained, prepared, and maintained. Those records are obtained, prepared, and maintained by

1 Movant's employees or agents in the performance of their regular business duties at or near the time,  
2 and conditions, and/or events recorded thereon. The records are made either by persons with  
3 knowledge of the matters they record or from information obtained by persons with such knowledge.  
4 I have knowledge and/or access to Movant's business records regarding the Note and Deed of Trust  
5 that are the subject of this action and have personally reviewed these business records prior to  
6 executing this declaration.

7 3. On or about April 16, 2007, Debtors, for valuable consideration, made, executed and  
8 delivered to NL, Inc ("Lender") a Note in the principal sum of \$417,000.00 (the "Note"). Pursuant to  
9 the Note, Debtors are obligated to make monthly principal and interest payments commencing June  
10 1, 2007, and continuing until May 1, 2037, when all outstanding amounts are due and payable. A  
11 copy of the Note is attached to the concurrently served and filed Exhibits to the Declaration in  
12 Support of Motion for Relief From Automatic Stay ("Exhibits") as exhibit A and incorporated herein  
13 by reference.

14 4. Movant qualifies as the Note holder with standing to prosecute the instant Motion as  
15 Lender specially indorsed the Note to Movant and Movant is currently entitled to possession of the  
16 specially indorsed Note

17 5. On or about April 16, 2007, Debtors made, executed and delivered to Lender a Deed  
18 of Trust (the "Deed of Trust") granting Lender a security interest in the certain real property located  
19 at 5001 Horsetail Falls, Riverbank, California 95367 ("Real Property"), which is more fully  
20 described in the Deed of Trust. The Deed of Trust provides that attorneys' fees and costs incurred as  
21 a result of the Debtors' bankruptcy case may be included in the outstanding balance under the Note.  
22 The Deed of Trust was recorded on April 24, 2007, in the Official Records of Stanislaus County,  
23 State of California. A copy of the Deed of Trust is attached to the Exhibits as exhibit B and  
24 incorporated herein by reference.

25 6. Subsequently, Lender's beneficial interest in the Deed of Trust was assigned and  
26 transferred to Movant. A copy of the Corporation Assignment of Deed of Trust evidencing the  
27 Assignment of the Deed of Trust to Movant is attached to the Exhibits as exhibit C and incorporated  
28 herein by reference.

7. The obligation under the Note is in default as of September 1, 2008, for failure to make payments to Movant. As of December 6, 2010, the total obligation due and owing under the Note is in the approximate amount of \$488,851.19, representing the principal balance in the amount of \$410,695.53, interest in the sum of \$59,039.87, accumulated late charges in the amount of \$2,787.18, escrow advances in the amount of \$12,565.95, a recoverable balance in the amount of \$3,717.66, and other fees in the amount of \$45.00. This is an approximate amount for purposes of this Motion only, and should not be relied upon as such to pay off the subject loan as interest and additional advances may come due subsequent to the filing of the Motion. An exact payoff amount can be obtained by contacting Movant's counsel. Further, Movant has incurred additional post-petition attorneys' fees and costs in bringing the instant Motion. Moreover, the total arrears under the Note are in the approximate sum of \$102,041.21, excluding the post-petition attorneys' fees and costs incurred in filing the instant Motion.

8. I am informed and believe that, based on the Debtors' bankruptcy Schedules and Statements, the fair market value of the Property is approximately \$267,727.00. Copies of the Debtors' bankruptcy Schedules "A" and "D" are collectively attached to the Exhibits as exhibit D and incorporated herein by reference.

9. Based on the above, Movant maintains that the equity in the Property is as follows:

|  |                    |
|--|--------------------|
| Fair Market Value:                                 | \$267,727.00       |
| Less:  |                    |
| Movant's Deed of Trust                             | \$488,851.19       |
| CitiMortgage, Inc. - 2 <sup>nd</sup> Deed of Trust | \$74,404.00        |
| Costs of Sale (8%)                                 | <u>\$21,418.16</u> |
| Equity in the Property:                            | \$<316,946.35      |
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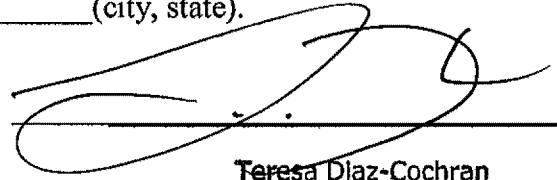
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2 10. Debtors' Statement of Intent indicates it is the intent of the Debtors to surrender the  
3 Real Property in full satisfaction of Movant's secured claim. A true and correct copy of the Debtors'  
4 Statement of Intent is attached to the Exhibits as exhibit E and incorporated herein by reference.

5 I declare under penalty of perjury under the laws of the United States of America that the  
6 foregoing is true and correct. Executed this 16 day of 12, 2010, at  
7 Fort Mill, SC (city, state).

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10 Teresa Diaz-Cochran

11 VP Loan Documentation  
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